

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT STRIDIRON,
Plaintiff,

- against -

GOTHAMIST LLC,
Defendant.

Docket No. 17-cv-03032

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Robert Stridiron (“Stridiron” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant Gothamist LLC (“Gothamist” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. Stridiron, a New York City-based photojournalist, seeks damages under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*, resulting from Defendant’s unauthorized reproduction and public display of an image of two police officers taken from a copyrighted video owned and registered by Plaintiff.

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Stridiron is a professional photojournalist in the business of licensing his photographs and videos to online, print, and television stations for a fee, having a usual place of business at 78-28 88th Road, Woodhaven, New York 11421. Stridiron's photographs and videos have appeared in many publications around the United States.

6. Upon information and belief, Gothamist is a limited liability corporation duly organized and existing under the laws of the State of New York, with a place of business at 295 Madison Avenue, 22nd Fl., New York, New York 10017. At all times material hereto, Gothamist has owned and operated a website at the URL www.gothamist.com (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Video

7. On December 19, 2016, Stridiron recorded two police officers in the street with flashlights searching the ground after a hit and run (the "Video").

8. The Video originally aired on WABC 7.

9. Stridiron is the author of the Video and has at all times been the sole owner of all right, title and interest in and to the Video, including the copyright thereto.

10. The Video was registered with the U.S. Copyright Office and was given pending Copyright Registration Number 1-4277191791. See Exhibit A.

B. Defendant's Infringing Activities

11. On or about December 19, 2016, Gothamist ran an article on the Website entitled *Pedestrian Killed By Hit-And-Run Driver In Brooklyn*. See

http://gothamist.com/2016/12/19/pedestrian_killed_by_hit-and-run_dr.php. The article

prominently featured a still image of two police officers searching the street with flashlights after a hit-and-run, which were taken from the Video (“the Photograph”). A true and correct copy of the article is attached hereto as Exhibit B.

12. Gothamist did not license the Photograph from Plaintiff for its article, nor did Gothamist have Plaintiff’s permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST GOTHAMIST)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Defendant infringed Plaintiff’s copyright in the Video by reproducing and publicly displaying the Photograph on the Website. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff’s copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the aforementioned acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff’s rights.

17. As a result of Defendant’s infringement of Plaintiff’s copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant’s profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to recover his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

20. Defendant's conduct, described above, is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: April 26, 2017
Valley Stream, New York

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